Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Revision of the Commission's	)	CC Docket No. 94-102
Rules to Ensure Compatibility	)	RM-8143
with Enhanced 911 Emergency	)	
Calling Systems	)	

COMMENTS OF AT&T WIRELESS SERVICES, INC.

AT&T Wireless Services, Inc. ("AWS"), by its attorneys, hereby responds to the Commission's Further Notice of Proposed Rulemaking requesting comment on the call back number issues associated with non-service initialized wireless 911 calls.[1/] While the Commission has proposed several solutions to this issue, AWS believes that public education programs regarding the limitations of all types of non-initialized handsets are the best and most technically feasible method for addressing this problem.

DISCUSSION

I. Proposed Solutions for All Non-Initialized Phones

The Commission asks whether a variation of Temporary Local Directory Numbers ("TLDNs"), currently used for roamers, could be used to provide call back numbers for all non-initialized phones. Alternatively, the Commission questions whether "pseudo numbers or MINs [Mobile Identification Numbers] unique to the subscriber could be assigned to non-initialized phones to provide call back capability."[2/]

1/ In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Further Notice of Proposed Rulemaking, FCC 01-175 (rel. May 25, 2001) ("Further Notice").

2/ Further Notice at ¶ 8.

As CTIA explained in its previous comments in this proceeding, when TLDNs are used in a roaming environment, they are used only for call delivery and not for call back. Even as a means of facilitating call delivery, TLDNs are valid for only 20 seconds.[3/] CTIA further explains the difficulties that would be associated with trying to use a TLDN to provide call back numbers:

> TLDNs must be translated to a unique subscriber code in order to support call back. In the case of a non-service initialized subscriber, the TLDN would be mapped to the number programmed into the handset by the manufacturer or previous user. If the phone number is within the carrier's line range, given the pressure on numbering resources, there is an excellent chance that the number has been assigned to a new, service initialized user. Since the new user is registered on the carrier's system, call back will be directed to the new user. If the phone number is not within the carrier's line range, call back would be routed to the carrier associated with the NPA-NXX programmed into the handset. Since that carrier has no record of the user, the call back would not be routed to the serving carrier.[4/]

AWS agrees with CTIA that a call back solution that relies on TLDNs will not work. Moreover, any solution that requires carriers to assign a unique number to each non-initialized handset -- whether it uses a variation of TLDNs or a pseudo telephone number or MIN -- would have a devastating impact on already scarce numbering resources. As the Commission has recognized in other proceedings, "[t]he rapid growth of competition and the proliferation of new telecommunications services over the past several years have intensified the challenge that [the Commission] face[s] to meet [its] responsibilities as the guardian of numbering resources in the United States."[5/] Given the "rapid depletion of numbering resources nationwide" and the "near-

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3/ See CTIA Comments at 5 (filed June 19, 2000).

4/ Id. (internal citations omitted).

5/ In the Matter of Numbering Resource Optimization, 15 FCC Rcd 7574, 7577 (2000).

crisis state" of the North American Numbering Plan,[6/] the Commission should not take any action in this proceeding that will increase the demand for already scarce numbering resources.

Most importantly, however, efforts to develop and implement any type of technical solution for the call back problem for non-initialized handsets would of necessity divert manufacturer, carrier, and PSAP resources from higher priority activities such as deploying Phase I and Phase II E-911 services. As AWS explained in its previous comments, locating customers and delivering calls are among the most complex aspects of operating a wireless network.[7/] At least where AWS is concerned, the personnel that currently are tasked with implementing Phase I and Phase II E-911 are the same ones called upon to analyze and comment upon the feasibility and merits of proposals for providing call back to non-initialized phones. If the Commission requires a technical solution to this problem, these same personnel will be the ones that must integrate that solution into the wireless network. Given the limited number of non-initialized handsets, the drain on E-911 resources and the effect it will have on the deployment of Phase I and Phase II E-911 services are simply not justified.

II. Proposed Solutions for Carrier-Donated Phones

As the Commission notes, one subcategory of non-service initialized phones that do not permit call back by PSAPs are refurbished phones that have been reissued to individuals through various public service donor programs.[8/] The number of such phones is relatively small, however, while the costs of any sort of technical solution that would enable PSAP call back are

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6/ Id. at 7577-7578.

7/ See AWS Comments at 3-4 (filed June 19, 2000) (responding to Public Notice seeking comment on request for further consideration of call back number issues associated with non-service initialized wireless 911 calls) ("AWS Comments").

8/ Further Notice at ¶ 3.

likely to be substantial.[9/] Imposing such costs on phone donors could have the unintended consequence of discouraging wireless carriers from donating refurbished phones.[10/] Even without call back capability, the distribution of non-service initialized phones by civic and charitable organizations provides immense benefits to the recipients who otherwise could not afford a wireless handset or service by giving them access to emergency services. The Commission should not take any action, such as imposing even a limited initialization requirement, that would discourage voluntary carrier participation in handset donation programs.

III. Proposed Solutions for 911-Only Handsets

The second subcategory of non-initialized phones that the Commission discusses in the Further Notice are "911-only" phones, which are specifically designed to limit outgoing calls to 911 and do not permit any incoming calls, including those from PSAPs. As the Commission recognizes, the commercial availability of 911-only phones is an unintended consequence of the Commission's rules requiring wireless carriers to forward all 911 calls without respect to their call validation processes,[11/] notwithstanding the fact that non-service initialized phones do not provide reliable call back numbers.[12/] As AWS explained in its original comments in this proceeding, the most reasonable solution to the marketing of such phones would be for the

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[9/] See AWS Comments at 2; CTIA Reply Comments at 3; Secure Alert Reply Comments at 6.

[10/] See Further Notice at ¶ 12.

[11/] See 47 C.F.R. § 20.18(b); Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Memorandum Opinion and Order, 12 FCC Rcd 22665, at ¶¶ 33, 108 (1997) ("Reconsideration Order").

[12/] See, e.g., Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676, 18696 ¶¶ 37-38 (1996); Reconsideration Order at ¶¶ 109-110.

Commission to reverse its existing policy requiring carriers to forward all 911 calls, but that would deprive some consumers of the ability to contact an emergency service provider.[13/]

One solution that the Commission offers for 911-only phones is a requirement that all manufacturers of 911-only phones encode a standard non-dialable "telephone number" into the handset.[14/] If this number is received by a PSAP, the PSAP will know that the 911 caller's handset lacks call back capability and can act accordingly. Although AWS takes no position on the merits of this proposal, AWS does wish to update information it provided in its original reply comments about the likely inclusion in the Phase II E-911 standard (J-SDT-036) of a capability for notifying a PSAP that a call is coming from a non-initialized phone.[15/] This feature was incorporated as an option in the Phase II E-911 standard by TR45.2 AHES under the name "MobileCallStatus," which could allow for implementation of this feature in Phase II E-911 software. However, AWS has learned from its infrastructure vendors that initial versions of Phase II compliant software will not include this feature and AWS and other carriers therefore will not be able to support this function as AWS had expected.

The Commission also notes that "[i]nstead of an encoding or labeling requirement, we are considering a requirement that manufacturers modify newly-manufactured 911-only phones to permit return calls from PSAPs."[16/] While the Commission's discussion of this proposal focuses only on the difficulties that such a requirement would impose on manufacturers of 911-only handsets, AWS does not believe that there is any way to permit return calls from PSAPs to 911-only handsets that would not also impact carriers and raise the numbering and E-911

[13/] AWS Comments at 2.

[14/] Further Notice at ¶ 15.

[15/] See AWS Reply Comments at 2 (filed July 5, 2000).

implementation issues described above. Any call back solution the Commission adopts for 911-only phones should put the burden on the manufacturer or marketer of the handset.

IV. Proposed Solutions for Transferred Phones

The Commission notes that there is a third subcategory of phones that do not permit PSAP call back that is also a product of the Commission's rule requiring wireless carriers to forward all 911 calls without respect to their call validation processes -- phones for which the service subscription has lapsed that are given to friends or family for emergency use.[17/] AWS agrees with the Commission that the ICSA proposal to permit this type of non-initialized handset to be reprogrammed with the same ESN as the user's service initialized handset does not provide an effective solution for the call back problem.[18/] First, as the Commission recognizes, "any PSAP that attempted to return a 911 call could easily reach one of the phones other than that from which the 911 call was made, because both phones would have the same call back number and ESN, and the network would be unable to distinguish between them."[19/]

Moreover, not only does this proposal fail to solve the PSAP call back problem, but it would also revive the practice of "cloning" cellular phones by permitting ESNs to be alterable. Cloning is a type of wireless fraud in which the MIN and ESN of a valid handset are copied into a new handset that then assumes the identity of the valid handset. The cloning problem has cost the wireless industry over $2 billion in fraud losses since the early 1990s, but the industry has been much more successful in combating cloning since the FCC adopted rules that require every

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[16/] Further Notice at ¶ 17.

[17/] Id. at ¶ 18.

[18/] Id.

[19/] Id.

handset in service to have a unique, unalterable ESN.[20/] ICSA's proposal would reverse that progress and should be rejected.

A far better solution is the Commission's proposal for public education campaigns concerning the limitations of all non-initialized phones, including those transferred among friends and family.[21/] Such a program could easily be developed and implemented by a carrier association like CTIA or PCIA and would be far more cost effective and far less likely to have unintended negative consequences than any sort of technical solution.

[20/] See 47 C.F.R. § 22.919. A policy that encourages cloning would be inconsistent with the Wireless Telephone Protection Act, Public L. 105-172 (1998), which makes it illegal to use or possess equipment that can modify the MIN or ESN of a cellular telephone so that the phone may be used to obtain unauthorized cellular service.

[21/] Further Notice at ¶ 19.

CONCLUSION

The Commission should not adopt either of the proposed technical solutions for providing call back capability for non-initialized phones. The negative consequences of either proposal, including the drain on numbering and E-911 implementation resources, would far outweigh the potential benefits. Likewise, call back requirements for any of the subsets of such phones identified by the Commission are unnecessary and could be counterproductive. A far better solution would be enhanced public education campaigns to alert users of non-initialized phones about their limitations.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Margo Adams, hereby certify that on this 9th day of July 2001, I caused copies of the foregoing "Comments of AT&T Wireless Services Inc." to be sent to the following by either first class mail, postage prepaid, or by hand delivery (*):

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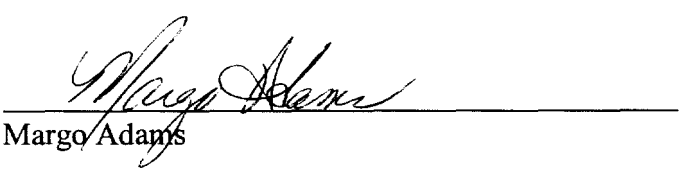

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